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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Auction of 800 MHz Air-Ground)
Radiotelephone Service Licenses Scheduled for)
May 10, 2006)

Report No. AUC-06-65-A
DA 06-3

Comment Sought on Reserve Prices or)
Minimum Opening Bids and Other Procedures)
for Auction No. 65)

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Federal Communications Commission
Office of Secretary

COMMENTS OF VERIZON AIRFONE

The Commission should quickly adopt most of the proposals in the Public Notice on Auction No. 65.¹ In order to ensure that the market, and not the Commission, determines the value of these licenses, however, the Commission should not institute a reserve price for this auction. Verizon Airfone Inc. ("Airfone") supports the Commission's decision to move quickly to conduct an auction of licenses in the 800 MHz Air-Ground service. As Airfone has shown, there is significant demand for broadband services onboard commercial and general aviation aircraft.² The Commission's action will hasten the day when consumers can benefit from these new services.

In the Public Notice, the Commission proposed to establish both minimum opening bids

¹ *Auction of 800 MHz Air-Ground Radiotelephone Service Licenses Scheduled for May 10, 2006; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Procedures for Auction No. 65*, Public Notice, DA 06-3, Report No. AUC-06-65-A (Auction No. 65) (rel. Jan. 10, 2006) ("Public Notice").

² Letter from Donald C. Brittingham, Director-Wireless/Spectrum Policy, Verizon, to Marlene Dortch, Secretary, FCC, WT Docket Nos. 03-103, 05-42 (filed Dec. 15, 2005).

for each license and an aggregate reserve price for the entire band.³ According to the Commission, minimum opening bids will accelerate the competitive bidding process while the aggregate reserve price will ensure that the public recovers a portion of the public spectrum resource.⁴

Airfone supports the establishment of a minimum opening bid requirement for the Air-Ground licenses, and the specific minimum opening bids proposed in the Notice.⁵ Minimum opening bids establish a reasonable starting point for the auction and ensure that the auction proceeds at a reasonable pace. The Commission has employed such a requirement in the vast majority of auctions it has held, with considerable success.

However, Airfone opposes the use of reserve prices (either individual reserves for each license sold or an “aggregate” reserve for the entire auction). By setting an aggregate reserve price, as proposed in the Notice, the Commission is attempting to establish the value of the Air-Ground spectrum in advance of the auction. But it does so without discussion of the methodology it used to reach its valuation.⁶ Instead, the Commission acknowledges that there is substantial “uncertainty” regarding the relative values of the 800 MHz Air-Ground Radiotelephone Service licenses.⁷ Because the Commission has never auctioned licenses for an Air-Ground service, it has no historical data on which to base its valuation.

³ *Public Notice* at 8-9 (proposing minimum opening bids of \$1,500,000, \$2,800,000, and \$200,000 and an aggregate reserve price of \$5,000,000).

⁴ *Id.* at 8.

⁵ *Id.* at 8-9.

⁶ *Id.* at 9 (the Commission’s statement, “We also propose to establish a published reserve price of \$5,000,000 for the entire band,” is the extent of its analysis regarding a specific valuation for this spectrum).

⁷ *Id.*

Given the uncertainty associated with the valuation of any spectrum, the Commission has historically left it to the marketplace to decide. Indeed, in implementing its competitive bidding rules, the Commission found that different entities may have different views of the value of the same spectrum.⁸ As a result, the Commission has never auctioned spectrum in which it has employed a reserve price.⁹ Airfone agrees that the market is a much better arbiter of spectrum value. For that reason, the Commission should not set reserve prices for the spectrum here.

If the Commission nevertheless determines a reserve price is necessary, it should set specific reserve prices for each license rather than establishing an aggregate auction reserve. In the Air-Ground case, one license is likely to be valued more highly than the other.¹⁰ As a result, the bidder for the more highly valued license could be responsible for a disproportionate amount of any aggregate reserve price. In addition, if the auction reaches a point where the aggregate reserve has not been met without any further competitive bids, one or more of the bidders would

⁸ *Implementation of Section 309(j) of the Communications Act – Competitive Bidding*, Second Report and Order, 9 FCC Rcd 2348, ¶ 5 (1994).

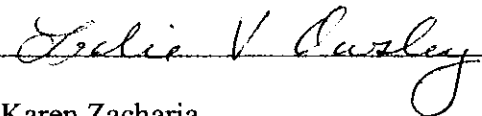
⁹ The Commission did establish a reserve price for Auction No. 31, though that auction has never been conducted. While Verizon does not agree with the conclusion reached by the Commission in Auction No. 31, the reasoning provided by the Commission for employing a reserve price in that auction clearly does not apply to Auction No. 65. *See Auction of Licenses in the 747-762 and 777-792 MHz Bands Scheduled for June 19, 2002; Further Modification of Package Bidding Procedures and Other Procedures for Auction No. 31*, Public Notice, 17 FCC Rcd 5140 (2002).

¹⁰ The record indicates that there is likely to be a significant difference between the value of the 3 MHz license and the 1 MHz license, because the larger license will support broadband services, while the smaller license will not. *See, e.g.*, Letter from Dean R. Brenner, Senior Director, Government Affairs, QUALCOMM Incorporated, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 03-103, at 2 (filed Sept. 3, 2004); Letter from Michael J. Thornton, Flarion Technologies Inc., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 03-103, at 1 (filed Sept. 2, 2004) (stating that 125 kHz guard bands are required on each side of a 1.25 MHz wide carrier to deploy their respective technologies and that a 3 MHz spectrum block (comprised of 1.5 MHz paired channels) would provide sufficient spectrum to deploy these technologies in the ATG band).

be required to increase its bid without any economic rationale. To prevent this false incentive from skewing the auction results, the Commission should establish separate reserve prices for each license if it determines that a reserve price is necessary to meet its statutory mandate. Of course, the Commission can avoid this predicament altogether by not setting any reserve price, which Airfone strongly recommends.

For the reasons discussed above, Airfone supports the Commission's decision to make these frequencies available expeditiously. As Airfone has shown, the American public will substantially benefit from the rapid roll-out of broadband Air-Ground services. However, while Airfone backs the large majority of the auction proposals, the Commission should not impose an aggregate reserve price or any reserve prices on the licenses being auctioned, as this will artificially distort the market value of the spectrum in question and impede the ability of winning bidders to put the spectrum to its highest and most valuable use.

Respectfully submitted,

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